

P O R T A L E | R A N D A Z Z O

January 8, 2024

Hon. J. Paul Oetken
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007
Via email: OetkenNYSDChambers@nysd.uscourts.gov

Re: USA v. Mizrahi, 22-cr-650
Extension of Time to Provide Notice of Expert Testimony

Your Honor,

The defendant, Martin Mizrahi requests a short extension of time to file the parties' notice(s) of expert testimony pursuant to Federal Criminal Rules of Procedure Rule 16(b)(1)(c).

Following correspondence between the parties, it was agreed that parties' notice(s) of expert witnesses would be provided on January 8, 2024. This date was noticed to Your Honor via letter motion on December 6, 2023 (Dkt. 59). Your Honor approved and adopted this date on December 15, 2023 (Dkt. 61).

Counsel envisions calling two expert witnesses on behalf of Mr. Mizrahi. For the specific reasons set out below, circumstances have prevented counsel from being able to fully comply with its Rule 16 expert disclosure obligations the agreed-upon deadline of January 8, 2024.

1. Expert in Financial crimes, money laundering. For several months Counsel has been diligently consulting several sources for an expert in this area. We reached out to retired Special Agent Richard Frankel (former Head of the Organized Crime Task Force (OTCF) here in New York and now a consultant), Brosnan Risk Consultants Chief Investigative Officer John Ryan (a former Assistant United States Attorney), and several extensive online databases. Counsel has had an incredibly difficult time finding anyone to work with us for various reasons: some do not/will not testify in criminal cases where the FBI is the investigating agency, others conflicted out, others had no availability. An estimated dozen or more experts declined and many simply would not respond or elaborate. Finally, on Thursday of last week (1/4/24), the defendant retained retired FBI Special Agent Colin Schmitt. He has the case file and is getting up to speed with the case as quickly as possible, but simply has not had enough time to be able to satisfy the requirements of Rule 16.
2. Expert Criminal Neuropsychologist. On 12/7/23, the defense retained Dr. N.G. Berrill, the Executive Director of a New York-based forensic psychology practice. Given Mr. Mizrahi's residence out of state, the doctor's busy schedule and the holidays, the doctor conducted his first session with the defendant on 12/22/23 and has scheduled the next for 1/11/24 in Great Neck, NY.

I have corresponded with AUSA Emily Deininger and the Government consents to the instant application to extend the date for disclosure of both parties' expert witnesses to January 12, 2024, so long as any motions *in limine* are due January 23, 2024, and any responses thereto due January 30, 2024.

If granted, defense counsel respectfully requests that Mr. Mizrahi be permitted to travel to Great Neck, New York (Nassau County), on January 11, 2024, and for any and all subsequent follow-up appointments with Dr. Berrill.

Thank you in advance for your attention to this matter.

Sincerely,

/s/ Richard A. Portale

Richard A. Portale, Esq.

Granted.
So ordered.
1/8/2024



J. PAUL OETKEN
United States District Judge